

**REMARKS/ARGUMENTS**

The Examiner is thanked for the Official Action dated August 15, 2005. This amendment and request for reconsideration is intended to be fully responsive thereto.

Claim 4 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 has amended to overcome this rejection. No new matter has been added.

Claim 1 has been amended to correct minor inconsistencies. No new matter has been added.

Claims 1-3, 5, 6, 11 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (USPN 5,998,718) in view of Smith (USPN 4,691,612). The applicant respectfully disagrees.

The Examiner alleges that the adjustable main weight member (50) of Liao is adapted to be selectively mounted to say a beater shaft without removing the beater shaft from the rotating shaft. The Applicant, after carefully reviewing the disclosure of Liao, claims that nowhere in the specification Liao discloses the add-on weight that may be mounted to the beater shaft without removing the beater shaft from the rotating shaft. Thus this rejection is unsound for this reason alone. In the event that the Examiner maintains this rejection of claim 1 in a future written

communication, the Applicant kindly requests the Examiner to point to a specific place (column, line) in the '718 patent where Liao discloses the weight mounted to the beater shaft without removing the beater shaft from the rotating shaft.

The examiner, however, concedes that Liao fails to disclose the use of at least one add-on weight.

The Examiner then cites the drum pedal assembly of Smith alleging that Smith discloses the use of a drum beater device adapted to be selectively affixed to a main weight member (16), wherein the at least one add-on weight (16a) is formed to partially circumscribe said beater shaft such that said at least one add-on weight may be slidably added to said main weight-member (column 4, lines 49-56).

Firstly, contrary to the Examiner's allegations, Smith fails to disclose the recited at least one add-on weight in addition to the main weight. In fact, the Examiner refers to two different embodiments of the drum pedal assembly of Smith. In other words, the weight member (16) is the only adjustable weight in the preferred embodiment shown in Figs. 1-6, while the weight member (16a) is the only adjustable weight in the alternative embodiment shown in Fig. 7. Therefore, even if the combination of and modification of Liao and Smith suggested by the Examiner could be made, the resulting assembly for adjusting torque of a drum beater device still would lack the at least one add-on weight adapted to be selectively affixed to the main weight member, wherein the at least one add-on weight may be added to said main weight member without removing the beater shaft from the rotating shaft.

Moreover, the Examiner has failed to provide the necessary motivation to combine the teachings of Liao with that of Smith. The Examiner's allegation that it would have been obvious

to one of ordinary skill in the art to modify the weight system as disclosed by Liao with the additional weight as disclosed by Smith in order to provide an efficient means for balancing a drum beater, is unsupported by the applied prior art and inconsistent with the disclosures of Liao and Smith, as all the references cited disclose single-weight assemblies. Clearly, the prior art references cited by the Examiner lack any suggestion or motivation to modify or combine teachings of Liao and Smith.

Therefore, claims 1-3, 5, 6, 11 and 12 define the present invention over the prior art and are in condition for allowance.

The Examiner, however, noted that claims 7-10 would be allowed if rewritten in independent form including all the limitations of the base claim and any intervening claims.

As it was argued above, claim 1 defines the invention over the prior art and is believed to be in condition for allowance. Therefore, claims 7-10 further define the present invention over the prior art and are in condition for allowance.

The Examiner further noted that claim 4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claim 4 has amended to overcome this rejection. Moreover, as it was argued above, claim 1 defines the invention over the prior art and is believed to be in condition for allowance. Therefore, claim 4 introduces additional limitations and further defines the present invention over the prior art and are in condition for allowance.

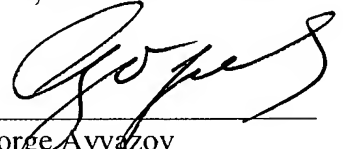
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New claims 13 and 14 have been added. Claims 13 and 14 represent claims 8 and 9, respectively, rewritten in independent form including all the limitations of the base claim and any intervening claims, indicated by the Examiner as allowable.

Therefore, it is respectfully submitted that claims 1-14 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted:  
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